

**CONCURRING STATEMENT OF
COMMISSIONER AJIT PAI**

Re: *Maricopa Community College District, Request for Experimental Authority to Relax Standards for Public Radio Underwriting Announcements for KJZZ(FM) and KBAQ(FM), Phoenix, Arizona, MO&O, FCC No. 14-187*

I agree with my colleagues that the Application for Review should be denied. While I do not doubt that Maricopa Community College District's (Maricopa's) proposed experiment involving the Commission's underwriting rules and policies was requested with the best of intentions, it does not meet the standard necessary to obtain a waiver. Among other things, as the Media Bureau has pointed out, Maricopa has not presented any special circumstances that distinguish it from all other noncommercial educational FM licensees.¹ Moreover, any reform of our underwriting rules and policies should be handled through industry-wide proceedings, rather than granting individual licensees special dispensation to air underwriting announcements that all other licensees would not be able to broadcast.

However, the Commission does not rest its decision on these narrow grounds. It instead goes much further, denying the Application for Review because it finds that the types of underwriting announcements that Maricopa would like to broadcast would violate the Communications Act.² Specifically, it concludes that these announcements would constitute advertisements, which noncommercial educational stations are prohibited by statute from airing.³

In my view, the Commission would have been better off avoiding this question of statutory interpretation. For one thing, as explained above, the Application for Review could have (and should have) been denied for other reasons. For another thing, today's decision could have a broader impact on public broadcasting. In particular, I have a hard time understanding how some of the "underwriting advertisements" that air before many of PBS's most popular programs, such as *Downton Abbey*, are lawful if all of the "underwriting announcements" that Maricopa would like to air are statutorily prohibited. For example, if it violates the statute for underwriting announcements to use qualitative adjectives based in fact,⁴ how can Viking River Cruises tout its "modern river cruise vessel[s]" in a thirty-second "underwriting announcement" that obviously appears designed to entice viewers into taking a river cruise so that they can be "transported . . . to another world, a world of dramatic landscapes, majestic castles and remarkable characters"?⁵

¹ See *Ernest T. Sanchez, Esq.*, Letter, 29 FCC Rcd 5180, 5182 (MB 2014).

² See 47 U.S.C. § 399B.

³ See Memorandum Opinion and Order at para. 6.

⁴ See *id.*

⁵ See <http://www.youtube.com/watch?v=f9BQj49zfXg>